



DEPARTMENT OF THE NAVY

PORTSMOUTH NAVAL SHIPYARD  
PORTSMOUTH, N. H. 03804-5000

IN REPLY REFER TO

5090  
Ser 106.3/098

JUL 22 2008

Ms. Susan Studlien  
Office of Environmental Stewardship  
EPA Region 1  
1 Congress Street, Suite 1100  
Boston, MA 02114-2023

Dear Ms. Studlien:

The Portsmouth Naval Shipyard received the Environmental Protection Agency's (EPA's) Immediate Compliance Order CAA/ASB-ICO-2008-020 dated June 30, 2008 which resulted from the EPA Asbestos NESHAP inspection on May 12 and May 13, 2008.

The Immediate Compliance Order was written for "at least two, approximately 35-gallon (4.7 cubic feet) bags contained dry, friable asbestos material, which was not sealed in leak-tight containers." This finding violated 40 CFR 61.145(c) and 61.150. The day of the finding, the Shipyard promptly corrected this violation of the Asbestos NESHAP and properly repackaged the unsealed bags.

In addition to immediately correcting the above mentioned finding, the Shipyard has also initiated actions intended to prevent future recurrences, as follows:

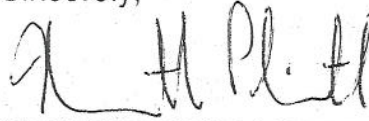
- The majority of the asbestos removal on the Shipyard is performed by contractors overseen by the Shipyard Public Works Department. During the planning phase of such work, Public Works will increase their emphasis to contractors on the specification for the removal and disposal of asbestos material at preconstruction conferences. This emphasis will include how to properly package asbestos-containing waste with regard to adequately wetting and properly collecting, containing, and disposing of all asbestos-containing waste as well as labeling asbestos-containing waste bags with the contractor's name, contract number, facility name, and date.

- To further ensure asbestos-containing waste is properly packaged, the Shipyard will provide oversight of bags deposited into the asbestos-containing waste roll-off dumpster located at the Shipyard's Hazardous Waste Transfer Facility.

ENCL (1)

If you have any questions, please contact Ralph Hickson, at 207-438-1481, or Melissa Libby, at 207-438-4475. Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read 'K. W. Plaisted', written in a cursive style.

KENNETH W. PLAISTED  
Head, Environmental Division  
By direction of the  
Shipyard Commander

Copy to: Peter Kudarauskas, EPA, Region 1  
Anne Fenn, EPA, Region 1  
Jamie Tansey, Maine Department of Environmental Protection

Discussion of:

Item 3: Resource Conservation and Recovery Act (RCRA) posting requirements of "No Smoking" signs.

On the afternoon of May 12 and on the morning of May 13, members of the EPA team were escorted by environmental personnel to view several of the Shipyard Hazardous Waste Accumulation Areas (HWAAs). It was noted during the inspections that "No Smoking" signs were not visible at some HWAAs, particularly at Buildings 60 and 240.

*40 CFR §265.17(a) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to: Open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.*

This Shipyard has complied with this requirement. There is a published smoking policy which bans smoking from inside all buildings and confines it only to specially designated areas outside. Furthermore, "NO SMOKING" signs are conspicuously displayed at the entrances to Buildings 240 and 60. In the cited rule, the specific location of the "NO SMOKING" signs is not clearly dictated, as are other regulatory signage requirements such as those in the "security" section of 40 CFR 265:

*40 CFR §265.14 (c) Unless exempt under paragraphs (a)(1) and (a)(2) of this section, a sign with the legend, "Danger -- Unauthorized Personnel Keep Out," must be posted at each entrance to the active portion of a facility, and at other locations, in sufficient numbers to be seen from any approach to this active portion. The legend must be ... legible from a distance of at least 25 feet.*

The "NO SMOKING" signs conspicuously displayed at the entrances to the buildings clearly warn all personnel that smoking is strictly forbidden in every portion of the building.

Item 4: The storage and control of an oxidizer class product.

On the afternoon of May 12, members of the EPA team were taken to view the HWAAs at the Shipyard Materials Testing Laboratory which are in Building 20 and managed by Code 134. On entry, the team requested to view the store-room for chemical products. The storeroom is kept dark, is ventilated, cool and dry. Inside, the inspectors observed a container of Ammonium Persulfate. The particular brown glass container (approximately 500 gram, 750 mL) was stored by itself (isolated) on a metal shelving unit. Noted on the container were the words, "Ammonium Persulfate," "1999" (date of manufacture), and "Refrigerate."

The product is used in very small quantities for field test kit reagent solutions which are for metals identification testing. Though this jar of Ammonium Persulfate was not refrigerated as noted on the container, and it has been in inventory since 1999, it was a new chemical, in use, and not waste. It had a current inventory barcode with evaluated standard Material Safety Data Sheet (MSDS) instruction for Ammonium Persulfate, recommending storage in cool, dry place. The MSDS instructions for Ammonium Persulfate state, "Keep in a tightly

closed container, stored in a cool, dry, ventilated area. Protect against physical damage. Isolate from incompatible substances. Separate from combustibles, organic or other readily oxidizable materials."

The material was being kept in an appropriate environment. It was a commercial chemical product, in use, and was not waste.

Item 5: RCRA operation and controls relevant to a sink for cleaning plating equipment.

On the morning of May 13, during inspection of two HWAA's at the inside machine shop, Shipyard building 300, the EPA Inspection Team observed a sink nearby HWAA 300-2. The sink is a molded polyethylene stationary sink with integral drain board, which is a functional work area for cleaning tools between plating assignments.

A discussion ensued at the location, regarding whether the sink should be marked with the words, "Hazardous Waste and whether the sink could be a container 'accumulating' a hazardous waste. There was also discussion regarding whether operating the sink as a Satellite Accumulation Area (SAA) would be a better management system. Following the EPA visit in 2006, and the recommendation of the EPA at that time, we agreed to put a cover on the sink. A marking stating "CORROSIVE" was placed on the cover, to identify the periodic contents for users and emergency response personnel, in coordination with the Hazard Communication Standard (the HAZCOM Standard at 29 CFR 1910.1200). This labeling properly alerts personnel to potential hazards associated with the sink.

The sink is used by Code 931 (Shop 31) platers. Platers perform brush plating jobs inside the building on various items undergoing repair. Brush plating is also known as selective plating, portable electroplating, electrochemical metalizing, and swab plating. Large work pieces frequently require small areas (i.e., journals, races, seals, or other mating or contact surfaces) to be copper or nickel plated. The dimensions and weights of the large pieces require the platers take their kits to the piece, rather than moving the piece to the plating area. On completion of a job, the platers return to their area, where they clean equipment and reequip. Shipyard plating is either copper or nickel plating (except in rare and controlled circumstances which do not apply here). The pHs of the solutions used varies. Copper solutions tend to be low pH. Conversely, our 2085 Nickel Solution is trade-name listed as "Neutral."

At no time was there discussion or disagreement about whether the sink was in good condition or fully compatible with any fluids introduced. No wastes are improperly disposed. There are no sanitary or industrial drains nearby the sink location. All fluids trapped in the sink become managed and controlled by the end of the work shift, every day that work is performed.

During a work shift, the sink is used to clean remaining copper and nickel plating solutions (or traces) from the plater's catch pans, catch containers, anodes and other equipment or materials intended for continued use. Clean water is used for the task and mixes with the materials rinsed from equipment. As a standard operating procedure, every work day, as a last operation at the end of the shift, the contents of the sink are transferred to a container in HWAA 300-2. The container is marked as a Hazardous Waste, Profile Number 3016, Plating Solution, (EPA Code D002, pH <2 waste). Though fluids trapped in the sink are not always hazardous waste, we always control them as if they are, rather than continually monitoring for pH. This approach is not prohibited or discouraged by the rule. The sink contents are transferred to an appropriately marked hazardous waste container daily as a dedicated clean-up chore at the end of the shift.

The sink is empty for the remainder of the day, through the night, until the next work day when a plater cleans up after a work assignment.

Must the sink be marked with the words "Hazardous Waste"? The Hazardous Waste Regulations at 40 CFR 260 through 265 do not require such marking, even for containers of material that are *identified* hazardous wastes or containers which are intentionally established for the accumulation of hazardous wastes:

*(40 CFR 262.34(c)(1)(ii)) "[A generator may accumulate as much as 55 gallons of hazardous waste ... provided he:] Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers."*

Do the fluids washed into the sink constitute accumulation? Accumulation is neither specifically nor clearly defined by the EPA within the Hazardous Waste Regulations, and all references to accumulation consider activities related to periods of days, months, and in some instances, years. Rule sections regarding accumulation with reference to time indicate long or extended periods of time, or state periods of days. In that portion of the rule (40 CFR 262.34) titled 'accumulation time', which is for 'satellite' accumulation reliefs especially, accumulation describes activities that occur over days (3, 30, 60, 90, 180 and 270, respectively). Any fluid caught in the sink is moved to a waste drum in a matter of hours. The activity is not equivalent to the acts or concepts of "accumulation" stated in the rules.

The management of the sink as a stand-alone Satellite Accumulation Area has been previously considered. The State of Maine has RCRA authorization and Maine regulations are stricter than the federal regulations in some cases. The standards applied by State of Maine to satellite accumulation are stricter. Environmental oversight checks the nearby HWAA 300-2 frequently. Each review includes close monitoring of the sink activity as well.

Item 6: Control of a scale removing solution.

Also on the morning of May 13 and during inspection of HWAA 300-2 in Building 300, a nearby set of 3'x4' fiberglass tanks and two halves of a blue polyethylene drum were observed in use by Code 931 (Shop 31) personnel. On investigation, the EPA team learned these were for removal of scale and marine growth from ship parts. The process involved soaking the parts in a commercial product called Safe-D-Scale, which is an aqueous organic salt solution with an amine penetrant ingredient. The solution has a dark color and amines typically have a fishy odor. Both characteristics cause the material to appear well used or stale, even when freshly decanted for use.

The drum halves were a subject of discussion. Their apparent condition was questionable. The EPA desired to know how often the tanks were pumped, and how the solution was managed when no longer usable. The environmental personnel present were not those most closely involved with the particular project. We stated the material would go through the normal controlled (drummed) waste system and would be transferred to the Hazardous Waste Storage Facility for final off-yard disposal. A profile for the waste was requested by the EPA team. Conference between Shipyard environmental personnel that afternoon indicated the waste material would be managed under Profile 9005, and a copy was provided to the EPA prior to departure that afternoon.

The part soaking process is 'new' to the Shipyard. The process has been in use for almost two years, but the original fluid placed in use still functions well. None of the Safe-D-Scale product has yet been determined to be waste or no longer useful for its intended purpose. We have determined however, as was stated at the time of inspection, that when the product needs to be disposed it will be marked, controlled and disposed as a hazardous waste and will be directed to the HWSF for disposal. When this material becomes waste it will be actually be managed under Profile Number 3018, a hazardous waste with a low pH and low levels (below regulatory limits) of metals. A copy of Profile 3018 will be forwarded if requested.

It was agreed, the housekeeping at the tanks location could be improved. The contents of the drum halves were returned to the tanks by shop personnel. The drum halves were subsequently wiped dry and then stored. They remain useful items and there is no immediate need to scrap them.

In conclusion, we hope this helps to resolve any outstanding issues regarding these items identified during the team's outbrief. If you have any questions, please contact us as soon as possible. The Shipyard's point of contact for hazardous waste issues is Steven Korish, Code 106.31K. Please feel free to call him at (207) 438-3832.